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**Human rights questions: human rights situations and reports of special rapporteurs and representatives**

**Andorra, Austria, Belgium, Canada, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Monaco, Netherlands, New Zealand, Poland, Portugal, Romania, Slovenia, Spain, Sweden and United Kingdom of Great Britain and Northern Ireland: draft resolution**

## The situation of human rights in the Sudan

*The General Assembly*,

*Reaffirming* that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and other applicable human rights instruments and the duty to fulfil the obligations that they have undertaken under the various international instruments in this field,

*Mindful* that the Sudan is a party to the International Covenant on Civil and Political Rights,[2] the International Covenant on Economic, Social and Cultural Rights,[2] the Convention on the Rights of the Child,[3] the African Charter on Human and Peoples' Rights[4] and the Geneva Conventions of 12 August 1949 on the protection of victims of war,[5]

*Recalling* its previous resolutions on the situation of human rights in the Sudan, and taking note of Commission on Human Rights resolution 2001/18 of 20 April 2001,[6]

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[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.
[3] Resolution 44/25, annex.
[4] United Nations, *Treaty Series*, vol. 1520, No. 26363.
[5] Ibid., vol. 75, Nos. 970-973.
[6] See *Official Records of the Economic and Social Council, 2001, Supplement No. 3* (E/2001/23), chap. II, sect. A.

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*Deeply concerned* at the impact of the continuing conflict in the Sudan between the Government of the Sudan and the Sudanese People's Liberation Army/Movement on the situation of human rights and at the disregard by all parties to the conflict of relevant rules of international humanitarian law,

*Expressing its deep concern* at the lack of progress in the peace process, the repeated offensives of the Sudanese army and the Sudanese People's Liberation Army/Movement, the general upsurge in fighting and the continued and recently even increased aerial bombings by the Government of the Sudan,

*Aware* of the urgent need for the Government of the Sudan to implement effective additional measures in the field of human rights and humanitarian relief in order to protect the civilian population from the effects of armed conflict,

*Expressing its firm belief* that progress towards a peaceful settlement of the conflict in southern Sudan within the context of the peace initiative of the Intergovernmental Authority on Development will contribute greatly to the creation of a better environment for the respect of human rights in the Sudan,

*Taking note* of the initiative by Egypt and the Libyan Arab Jamahiriya aiming at a negotiated and lasting peace in the country, and encouraging close coordination with the Intergovernmental Authority on Development,

1. *Welcomes*:

(a) The appointment of a new Special Rapporteur of the Commission on Human Rights and the interim report he has submitted on the situation of human rights in the Sudan;[7]

(b) The good cooperation extended by the Government of the Sudan to the former Special Rapporteur and to the new Special Rapporteur during his visits to the Sudan in March and October 2001, as well as the cooperation extended to other United Nations mandate holders in the field of human rights;

(c) The expressed commitment of the Government of the Sudan to respect and promote human rights and the rule of law and its expressed commitment to a process of democratization with a view to establishing a representative and accountable government, reflecting the aspirations of the people of the Sudan;

(d) The stipulation of basic human rights and freedoms in the Constitution of the Sudan and the establishment of the Constitutional Court, which has been in operation since April 1999;

(e) The repeated statements by the Government of the Sudan in favour of a comprehensive, lasting and effectively monitored ceasefire in southern Sudan;

(f) The proposal to create a broad-based national council to evaluate foreign peace initiatives to end the conflict and make relevant recommendations;

(g) Recent additional efforts by the Government of the Sudan to improve freedom of association and assembly, in particular the adoption of the Associations and Political Parties Act of 2000 and the announcement of the creation of a high commission to review the law on public order;

[7] A/56/336.

(h) The recent visit, upon the invitation of the Government of the Sudan, of the Representative of the Secretary-General on internally displaced persons, as well as the commitment of the Government to continue its efforts to address the problem of internally displaced persons and to effectively follow up the visit of the Representative, including by holding a conference on the subject of internal displacement in the near future;

(i) The people-to-people peace process at the grass-roots level, in particular the Nuer conference, held in Kisumu, Kenya, from 16 to 22 June 2001, leading to the Kisumu Declaration for Nuer Unity and Peace, which, like other conferences held at the local level, should contribute to a comprehensive peace settlement in the context of the existing peace initiatives;

(j) Recent measures to drop lawsuits against some political detainees and the liberation of some political detainees, while expressing its deep concern at the fact that at least some of the detainees were re-arrested shortly thereafter under the National Security Forces Act, thereby perpetuating their detention;

(k) The reconvening of the National Assembly in April 2001;

(l) The improved role of the National Press Council in monitoring complaints about the press;

(m) Technical cooperation agreement signed by the Government of the Sudan and the Office of the United Nations High Commissioner for Human Rights on 29 March 2000 and the posting of an expert from the Office to the Sudan with the task of advising the Government on the development of national capacity to promote and protect human rights;

(n) The demobilization and repatriation of more than 3,500 child soldiers in close cooperation between the Sudanese People's Liberation Army/Movement and the United Nations Children's Fund;

(o) The recent signature by the Sudanese People's Liberation Army/Movement of an agreement to prohibit the use, production, stockpiling and transfer of anti-personnel mines throughout the territories under its control, while at the same time encouraging the Sudanese People's Liberation Army/Movement to swiftly implement the agreement;

(p) The efforts to implement the right to education;

2. *Expresses its deep concern*:

(a) At the impact of the ongoing armed conflict on the situation of human rights and its adverse effects on the civilian population, in particular women and children, and at the continuing serious violations of human rights, fundamental freedoms and international humanitarian law by all parties to the conflict, in particular:

(i) The occurrence of cases of extrajudicial summary or arbitrary execution resulting from armed conflict between members of the armed forces and their allies and armed insurgent groups within the country, including the Sudanese People's Liberation Army/Movement;

(ii) The retention of the state of emergency until the end of 2001;

(iii) The occurrence, within the framework of the conflict in southern Sudan, of the use of children as soldiers and combatants, forced conscription, forced displacement, arbitrary detention, torture and ill-treatment of civilians and still-unresolved cases of enforced or involuntary disappearances;

(iv) The plight of internally displaced persons in the Sudan, whose numbers are among the highest in the world, in particular for women and children, and the harassment of such persons;

(v) The forced displacement of populations, in particular in areas surrounding the oilfields, and notes the invitation extended by the Government of the Sudan to the Special Rapporteur to visit the oil-producing areas;

(vi) The continued abduction of women and children by Murahaleen groups and other government militias and their subjection to forced labour or similar conditions;

(vii) The lack of efforts to restrain the establishment by certain groups directly sponsored by the Government, including the Murahaleen, of militias that commit serious human rights abuses such as killings, torture, rape, abduction and the destruction of shelter and livelihood;

(viii) The negative role of undisciplined southern militias, armed by the Sudanese army and the Sudanese People's Liberation Army/Movement, which are responsible for killings, torture, rape, the burning of villages, the destruction of crops and the theft of cattle;

(ix) The continuation of indiscriminate aerial bombardment of civil targets by the Government of the Sudan, in particular the bombing of schools, hospitals, churches, food distribution areas and market places, which seriously and repeatedly affects the civilian population and civilian installations;

(x) The use by both the Sudanese army and the Sudanese People's Liberation Army/Movement of civilian premises for military purposes;

(xi) The use of weapons, including landmines, and indiscriminate artillery shelling against the civilian population;

(xii) The conditions imposed in contravention of humanitarian principles, by both the Government of the Sudan and the Sudanese People's Liberation Army/Movement on humanitarian organizations working in the Sudan, especially the denial of access to them, which have seriously affected their safety and led to the withdrawal of many such organizations, with grave consequences on the already precarious situation of thousands of people living in areas under its control;

(xiii) The difficulties encountered by United Nations and humanitarian staff in carrying out their mandate because of abductions and harassment by both parties to the conflict, indiscriminate aerial bombings and the reopening of hostilities;

(xiv) The attacks on and use of force against United Nations as well as humanitarian personnel by the Sudanese People's Liberation Army/Movement;

(xv) The measures taken by the leadership of the Sudanese People's Liberation Army/Movement to prevent tribal elders, women and youths from participating in civil society gatherings such as the Nuer conference;

(b) At continuing violations of human rights in areas under the control of the Government of the Sudan, in particular:

(i) Restrictions on the freedom of religion, freedom of expression, in particular significant censorship of the press, freedom of association and the right to peaceful assembly;

(ii) The restriction of political freedom, in spite of the replacement, in March 2000, of the Political Associations Act of 1998 by the Associations and Political Parties Act and the increased activity by some opposition parties;

(iii) Arbitrary arrest and detention without trial, in particular of political opponents, human rights defenders and journalists, as well as acts of intimidation and harassment against the population by the security organs;

(iv) The new amendment to the National Security Forces Act, approved by Parliament and endorsed by the President, which allows the security forces to arrest and detain individuals for a period of up to six months and three days without proper judicial review and to renew the detention as a preventive measure, practically without limits;

(v) Precarious conditions of detention, the use of torture and violations of human rights by security organs, intelligence agencies and the police, while encouraging the judiciary to exercise more control over such agencies;

(vi) The extent of the use of the most cruel forms of corporal punishment in contravention of human rights norms and standards;

(vii) The use of the death penalty in disregard of the provisions of the International Covenant on Civil and Political Rights[2] and United Nations safeguards;

3. *Urges* all parties to the continuing conflict in the Sudan:

(a) To respect and protect human rights and fundamental freedoms, to respect fully international humanitarian law, in particular the need to ensure the protection of civilians and civilian premises, thereby facilitating the voluntary return, repatriation and reintegration of refugees and internally displaced persons to their homes, and to ensure that those responsible for violations of human rights and international humanitarian law are brought to justice;

(b) To work immediately to put in place a global, lasting and effectively monitored ceasefire as a necessary first step to a negotiated settlement to the conflict;

(c) To take immediate steps to implement the Declaration of Principles for resolving the conflict in the Sudan, in particular to take all necessary steps to negotiate a ceasefire agreement as agreed upon in point 6 of the Declaration;

(d) To resume the peace talks immediately and to continue to cooperate fully with the peace efforts of the Intergovernmental Authority on Development;

(e) To stop immediately the use of weapons, including landmines and indiscriminate artillery shelling, against the civilian population, which runs counter to principles of international humanitarian law;

(f) To stop the use of tribal militias that commit serious human rights abuses;

(g) In particular the Government of the Sudan, to cease immediately and unconditionally all indiscriminate aerial bombardment of the civilian population and civilian installations, including schools, hospitals, churches, food distribution areas and market places, which runs counter to fundamental principles of human rights and humanitarian law;

(h) In particular the Sudanese People's Liberation Army/Movement, to stop using civilian premises for military purposes, misappropriating humanitarian assistance and diverting relief supplies, including food, from their civilian recipients;

(i) To grant full, safe and unhindered access to all international agencies and humanitarian organizations in order to facilitate by all possible means the delivery of humanitarian assistance, in conformity with international humanitarian law, to all civilians in need of protection and assistance, in particular in the Nuba Mountains, the Western Upper Nile, Blue Nile State, Bahr-el-Ghazal and other areas in need throughout the country, to continue to cooperate with the Office for the Coordination of Humanitarian Affairs and Operation Lifeline Sudan to deliver such assistance, to take measures against those who are responsible for the abduction of United Nations and humanitarian staff, urges in particular the Sudanese People's Liberation Army/Movement to lift as soon as possible the conditions it has imposed on the work of international agencies and humanitarian organizations, and urges in particular the Government of the Sudan to stop using the denial of humanitarian assistance flights for political purposes;

(j) Not to use or recruit children under the age of eighteen as soldiers, encourages continuation of the demobilization of child soldiers currently being undertaken by the United Nations Children's Fund, with the cooperation of the Sudanese People's Liberation Army/Movement, and urges both parties to the conflict not to use or recruit children under the age of eighteen as soldiers and to refrain from the practice of forced conscription;

(k) To fulfil their commitments concerning the protection of children affected by the conflict, such as to cease the use of anti-personnel landmines and attacks on sites where there is usually a significant presence of children as well as the abduction and exploitation of children and the recruitment of children as soldiers, to advance the demobilization and reintegration of child soldiers and to ensure access to displaced and unaccompanied minors and reunify them with their families;

(l) To allow an independent investigation of the case of the four Sudanese nationals who were abducted on 18 February 1999;

4. *Calls upon* the Government of the Sudan:

(a) To comply fully with its obligations under international human rights instruments to which the Sudan is a party and to promote and protect human rights

and fundamental freedoms, as well as to respect its obligations under international humanitarian law;

(b) To ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;[8]

(c) To sign and ratify the Convention on the Elimination of All Forms of Discrimination against Women;[9]

(d) To ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction;[10]

(e) To undertake efforts towards creating an environment that is more conducive to democratization and to improvements in the field of human rights;

(f) To continue to strengthen its efforts to ensure the rule of law by bringing legislation more into line with the Constitution and into conformity with the applicable international human rights instruments to which the Sudan is a party, and to ensure that all individuals in its territory enjoy fully the rights recognized in those instruments;

(g) To liberalize the legal provisions on public order and to continue assimilation into a regular criminal justice system;

(h) To ensure full respect for freedom of religion and, in this respect, to consult fully with religious leaders and other parties concerned when considering any new legislation on religious activities, to remove obstacles to obtaining permission to construct religious buildings, to respect the sanctity of religious buildings and to resolve church property issues;

(i) To fully implement existing legislation, including the appeals procedures, that safeguards human rights and democracy, in particular the Associations and Political Parties Act;

(j) To raise the age of the criminal responsibility for children in order to take into account the observations of the Committee on the Rights of the Child;

(k) To implement the Standard Minimum Rules for the Treatment of Prisoners[11] and to continue to give special consideration to imprisoned women and juveniles;

(l) To take all effective measures to end and to prevent all acts of torture and cruel, inhuman or degrading treatment, to take into account extenuating circumstances to the maximum extent possible, to ensure that all accused persons are held in ordinary custody and receive prompt, just and fair trials under internationally recognized standards, to investigate all reported human rights violations, including acts of torture, brought to its attention and to bring to justice those responsible for such violations;

(m) To ensure that capital punishment will not be imposed for crimes other than the most serious and will not be pronounced in disregard of the obligations

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[8] Resolution 39/46, annex.

[9] Resolution 34/180, annex.

[10] See CD/1478.

[11] See *Human Rights: A Compilation of International Instruments*, vol. I (First Part), (United Nations publication, Sales No. E.94.XIV.1 (Vol. I, Part 1)).

assumed under the International Covenant on Civil and Political Rights and the provisions of United Nations safeguards;

(n) To take concrete action to prevent and stop the abduction of women and children taking place within the framework of the conflict in southern Sudan, to bring to trial any persons suspected of supporting or participating in such activities, to support more strongly and more effectively the Committee for the Eradication of Abduction of Women and Children and to facilitate the safe return of affected children to their families as a matter of priority, in particular through the Committee, with which all concerned have the responsibility and the duty to cooperate;

(o) To make a concerted effort to restrain the activities of the Murahaleen and to end the grave human rights abuses against civilians associated with their activities, to refrain from integrating them in the Sudanese army's military action and to stop financing and equipping them;

(p) To ensure full respect for the freedom of expression, opinion, thought, conscience and religion, as well as the freedom of association and assembly, throughout the territory of the Sudan;

(q) To continue to implement fully its commitment to the democratization process and the rule of law and to create, in this context, conditions that would allow for a democratization process that is genuine and that wholly reflects the aspirations of the people of the country and ensures their full participation;

(r) To make further efforts to implement the commitment made to the Special Representative of the Secretary-General for Children and Armed Conflict not to recruit children under the age of eighteen as soldiers;

(s) To make further efforts to address effectively the problem of internally displaced persons, including ensuring their access to effective protection and assistance;

(t) To consider the establishment of an independent national institution on human rights;

5. *Encourages*:

(a) The Government of the Sudan to continue its cooperation with the United Nations in the field of human rights through the Special Rapporteur and the Office of the United Nations High Commissioner for Human Rights and its expert in Khartoum entrusted with the task of advising the Government on the development of national capacity to promote and protect human rights, and to consider how to expand the Office to include a monitoring role;

(b) The Sudanese People's Liberation Army/Movement to allow the people-to-people peace process to develop freely and unhindered, and to consider it an important contribution to the peace process, in particular as a preliminary stage in the implementation of the Declaration of Principles in the framework of the Intergovernmental Authority on Development peace process;

6. *Calls upon* the international community to expand its support for activities, in particular those of the Committee for the Eradication of Abduction of Women and Children, aimed at improving respect for human rights and humanitarian law, and to consider how to expand the Office of the High Commissioner to include a monitoring role;

7. *Decides* to continue its consideration of the situation of human rights in the Sudan at its fifty-seventh session, under the item entitled "Human rights questions", in the light of further elements provided by the Commission on Human Rights.